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BY HAND DELIVERY AND ELECTRONIC DELIVERY

July 17, 2006

Mr. Robert Sydney
General Counsel
Massachusetts Division of Energy Resources
100 Cambridge Street
Suite 1020
Boston, MA 02114

RE : Commonwealth Of Massachusetts, Office Of Consumer Affairs And Business Regulation, Division Of Energy Resources, Proposed Revisions To 225 CMR 14.00 Renewable Energy Portfolio Standard And The Proposed Guideline On The RPS Eligibility Of Biomass Generation Units

Dear Mr. Sydney,

As a stakeholder, Dominion is pleased to submit the following comments concerning the proposed changes to 225 CMR 14.00 Renewable Energy Portfolio Standard and the *Proposed Guideline On The RPS Eligibility Of Biomass Generation Units* (the Guideline) issued jointly by the Division of Energy Resources (the Division) and the Massachusetts Department of Environmental Protection (the Department). Dominion is not only interested in these standards from a retail supplier perspective, but also from a generation asset owner perspective.

As you are aware, Dominion serves retail energy customers in eight states, including Massachusetts. Within Massachusetts, Dominion assets include two power-generating facilities, Dominion Brayton Point, LLC and Dominion Salem Harbor, LLC.

We offer the following suggestions to ensure a robust REC market will succeed in the long term:

Certain Existing Generating Plants

The state has only a few existing steam-electric generating plants which have the potential to be retrofitted with biomass feed systems in order to produce electricity through biomass co-firing. Those facilities subject to 310 CMR 7.29 are already required to meet some of the most stringent air requirements in the country, for that technology and vintage.

Since the facilities subject to the multi-pollutant emission limitations of 310 CMR 7.29¹ are dramatically reducing their emissions, they should be able to co-fire fuel at these existing units, and be eligible to qualify as an "RPS Qualified Generation Unit" provided they co-fire an "Eligible Biomass Fuel." The Division and the Department should consider revising the technology and emission aspects of the Guideline on the RPS Eligibility of Biomass generation Units to accommodate the units subject to 310 CMR 7.29.

Renewable requirements in Massachusetts started out at one percent for 2003 and increase at a rate of 0.5 percent per year, reaching four percent by 2009. After 2009, an open-ended increase of one percent per year is invoked, until such time as the Division decides otherwise (Chapter 164 of the Acts of 1997). As stated by Barry G. Rabe² about Massachusetts in *Race to the Top: The Expanding Role of U.S. State Renewable Portfolio Standards*, "State officials are moving toward finalization of regulations for biomass eligibility but these will not resolve the considerable uncertainty regarding Massachusetts' ability to achieve its ascending RPS targets in the coming years."

If the Division and the Department were to set the standards in the Guideline to qualify as a 'RPS Qualified Generation Unit' consistent with the standards of 310 CMR 7.29 or a related Administrative Consent Order (ACO) or Amended ACO, along with reasonable technology (heat rate standards), then perhaps (with this expansion in RPS-qualified biomass co-fired power plant capability), the supply of renewable energy in the market would increase and help mitigate, although not eliminate, the need for alternative compliance payments.

Since this increase would be *limited to only a few facilities*, it would alleviate the Division's and other third party concerns that the supply of MA RECs in the market would increase substantially ahead of demand, causing the price of MA RECs to decline significantly, hence altering the investment of capital in new plant construction, both for biomass plants and for generation based on all other renewable resources (wind, solar, landfill methane, anaerobic digestion, etc.). Allowing these existing generating facilities the option to co-fire 'Eligible Biomass Fuel' and to qualify as a 'RPS Qualified Generation Unit' also supports the state and regional fuel diversity and energy reliability goals. Alternatively, as we have previously suggested, concerns about flooding the REC market could be attenuated by limiting, perhaps by prorating, RECs generated via biomass co-firing in existing units.

Vintage Waiver Provisions

As currently proposed, vintage generation units are only able to claim the portion of the electrical energy output that qualifies as New Renewable Generation in any Compliance

¹ Including those facilities subject to a 310 CMR 7.29 related Administrative Consent Order (ACO) or Amended Administrative Consent Order (AACO).

² University of Michigan, Prepared for the Pew Center on Global Climate Change, June 2006.
http://www.pewclimate.org/global-warming-in-depth/all_reports/race_to_the_top/

Year as 'that portion greater than the Unit's Historical Generation Rate.' This incremental restriction will discourage biomass co-firing in the 310 CMR 7.29 facilities and suggest *all generation* attributable to 'eligible new renewable fuel' qualifies as New Renewable Generation until such time that the RPS market demonstrated no deficiency in RECs, in other words, no alternative compliance payments were required, for 'X' years in the Massachusetts market.

Renewable Energy Certificates Are Separate Attributes From CO₂ Offsets

We suggest that the Department and the Division issue a joint policy statement which indicates that CO₂ offset projects are allowed to simultaneously generate CO₂ emission reduction credits (ERCs) and Renewable Portfolio Standard (RPS) renewable energy certificates (RECs)³. A policy statement that indicates that CO₂ ERCs from offset projects and RECs are separate and collateral regulatory commodities will provide economic incentives for further renewables development.

Landfill gas projects (LFG) not only displace system power on a non-intermittent basis, but also actually reduce GHG emissions directly via destruction of methane that would have otherwise been emitted to the atmosphere from non-New Source Performance Standard (non-NSPS) landfills. As you are aware, methane is a greenhouse gas that is recognized by the International Panel on Climate Change as having a global warming potential that is 21 times more potent than CO₂. Additionally, methane is second only to carbon dioxide as a U.S. contributor to greenhouse gas emissions⁴. LFG projects are also on the short list of initially recognized offset projects by the RGGI Staff Working group in the Draft RGGI Model Rule.

If projects are not allowed to simultaneously generate RPS RECs and CO₂ equivalent offsets, severe market distortion may take place. RPS REC projects could take over a sizable portion of the available CO₂ offset projects in the market or vice versa, exacerbating the lack of availability of either. Therefore, it is especially important to allow certain renewables projects that simultaneously avoid or provide a net destruction of CO₂ equivalents and also contribute to the displacement of fossil generation on the dispatch curve, to concurrently generate CO₂ ERCs and RPS RECs and to advocate for this same policy under the Regional Greenhouse Gas Initiative (RGGI) process.

³ The Massachusetts Technology Collaborative (MTC) in its Green Power Partnership program has already determined in its pre-bid question and answer documents that RECs are a separate attribute from emission reduction credits. "MTC believes that the current definition of "generation attribute" does not encompass emission reduction credits or other accounting instruments that are not directly associated with actual emissions of the subject generating unit." Hence, *net reductions* in CO₂ equivalent emissions should be counted as CO₂ ERCs.

⁴ EPA 430-R-05-003, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2003* (EPA April 2005), Figure ES-1: U.S. GHG Emissions by Gas.

Broadening the Definition of Eligible Biomass Fuel

Finally, we ask that the Division consider broadening the definition of 'Eligible Biomass Fuel' in 225 CMR 14.02. We welcome the addition of construction and demolition (C&D) wood to this definition. However, we further suggest that *all specification⁵ materials diverted from landfills*, recycled as energy should be encouraged under the RPS as long as they meet either their permitted emission standards, those standards set by the Guidelines for Biomass Generating Units or those emissions standards set by DEP in the case of facilities or units with no permits or those not covered by the Guideline. Those fuels that not only contribute to fossil fuel displacement, but also avoid methane formation should be particularly encouraged. Examples of waste streams that should be considered include, but are not limited to, manufactured biomass fuel, such as enviro-fuel cubes, and natural oil bi-products (NOBs). It is in the best interest of the Division and the Department that alternatives exist to creating energy from suitable raw materials⁶ diverted as approved by the MADEP, which might otherwise end up in landfills.

We appreciate the Division's addition of the definition for 'Composite Fuel.' However, we believe manufactured biomass fuel⁷ should also be included in the definition of 'Composite Fuel.' Furthermore, we suggest that the definitions for 'Eligible New Renewable Fuel' or 'Eligible Biomass Fuel' specifically include 'manufactured biomass fuel' in order to then make the definition of 'Composite Fuel' more complete. In the case of the northeast, the raw material feedstock from which manufactured biomass fuel is made has the potential to yield a significant percentage of energy, regardless of where it might be burned.

In summary, the potential exists to provide incentives for a few existing steam-electric generating plants to be retrofitted with biomass feed systems in order to produce electricity through biomass co-firing. Facilities that are subject to 310 CMR 7.29 may be able to contribute to attenuating the REC market availability problems, while at the same time creating reductions in the creation of greenhouse gases, especially methane. We believe that The Division has taken important steps as outlined in Background Document on the Proposed Revisions to 225 CMR 14.00, the proposed revisions to 225 CMR 14.00 and the associated Guideline Document for Biomass Generation Units. At the same time we strongly encourage the Division to broaden the definition of eligible biomass fuels in the RPS so that *all approved specification materials*, recycled as energy are eligible and to specifically address 'manufactured biomass fuel.' Implementation of these changes in the Massachusetts RPS will also help to ensure the ongoing viability of fuel diversity and reliability in the Commonwealth while contributing to the goals of greenhouse gas reductions.

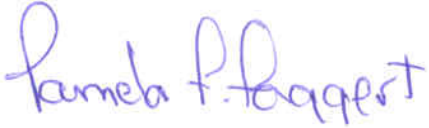
⁵ The Division and the Department may want to also consider a new definition for "Specification Raw Materials (SRM)"— which are not trash or waste but materials that are "diverted" and processed to become fuel, subject to Department approval.

⁶ Ibid.

⁷ Manufacture biomass fuel is typically derived from *non-recyclable* products.

Thank you for this opportunity to express our views and please feel free to call me at 804-273-3467 or Paula Hamel at 401-457-9234, if you have any questions.

Respectfully,

A handwritten signature in blue ink that reads "Pamela F. Faggert". The signature is written in a cursive style with a large initial 'P'.

Pamela F. Faggert

cc:

P. Hamel – Dominion

D. Weekley – Dominion

J. Sanderlin – Dominion